



Reprinted
February 24, 2007

HOUSE BILL No. 1480

DIGEST OF HB 1480 (Updated February 23, 2007 2:26 pm - DI 107)

Citations Affected: IC 33-37; IC 33-38; noncode.

Synopsis: Judges' pensions. Allows a participant in the 1985 judges' retirement system to elect to make additional contributions after 22 years. Requires the pension management oversight commission to identify a way to harmonize the benefit structures of the 1977 and 1985 judges retirement systems. Allows service credit accrued by a full-time referee, full-time commissioner, or full-time magistrate after leaving an elected term on the bench to be granted to a participating judge in the 1977 judges' retirement system if certain conditions are met. Requires that the portion of the judicial salaries fee retained by cities and towns to be used to fund the operation of city and town courts.

Effective: July 1, 2007.

Kuzman, Buell

January 23, 2007, read first time and referred to Committee on Ways and Means.
January 26, 2007, reassigned to Committee on Rules and Legislative Procedures.
February 15, 2007, reassigned to Committee on Ways and Means.
February 20, 2007, amended, reported — Do Pass.
February 23, 2007, read second time, amended, ordered engrossed.

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February 24, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1480

A BILL FOR AN ACT to amend the Indiana Code concerning
courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-37-7-8, AS AMENDED BY P.L.174-2006,
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 8. (a) The clerk of a city or town court shall
4 distribute semiannually to the auditor of state as the state share for
5 deposit in the state general fund fifty-five percent (55%) of the amount
6 of fees collected under the following:
7 (1) IC 33-37-4-1(a) (criminal costs fees).
8 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
9 (3) IC 33-37-4-4(a) (civil costs fees).
10 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
11 (5) IC 33-37-5-17 (deferred prosecution fees).
12 (b) The city or town fiscal officer shall distribute monthly to the
13 county auditor as the county share twenty percent (20%) of the amount
14 of fees collected under the following:

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- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and ~~corrections~~ **correction** fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and ~~corrections~~ fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

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(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The DNA sample processing fees collected under IC 33-37-5-26.2.

(3) The court administration fees collected under IC 33-37-5-27.

(h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26 **as the city or town share: to fund the operation of the city or town court.**

SECTION 2. IC 33-38-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) ~~before becoming a judge~~ was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate **either:**

(A) before becoming a judge; or

(B) after leaving an elected term on the bench;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1977 benefit

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1 system under section 1 of this chapter, credit for prior **or subsequent**
 2 service by the judge as a full-time referee, full-time commissioner, or
 3 full-time magistrate shall be granted under this chapter by the board if:

4 (1) the prior service was credited under the public employees'
 5 retirement fund;

6 (2) the state contributes to the judges' 1977 benefit system the
 7 amount the board determines necessary to amortize the prior
 8 service liability over a period determined by the board, but not
 9 more than ten (10) years; and

10 (3) the judge pays in a lump sum or in a series of payments
 11 determined by the board, not exceeding five (5) annual payments,
 12 the amount the judge would have contributed if the judge had
 13 been a member of the judges' 1977 benefit system during the prior
 14 service.

15 (c) If the requirements of subsection (b)(2) and (b)(3) are not
 16 satisfied, a participant is entitled to credit only for years of service after
 17 the date of participation in the 1977 benefit system.

18 (d) An amortization schedule for contributions paid under
 19 subsection (b)(2) or (b)(3) must include interest at a rate determined by
 20 the board.

21 (e) The following provisions apply to a person described in
 22 subsection (a):

23 (1) A minimum benefit applies to participants receiving credit in
 24 the judges' 1977 benefit system from service covered by the
 25 public employees' retirement fund. The minimum benefit is
 26 payable at sixty-five (65) years of age and equals the actuarial
 27 equivalent of the vested retirement benefit that is:

28 (A) payable to the member at normal retirement under
 29 IC 5-10.2-4-1 as of the day before the transfer; and

30 (B) based solely on:

31 (i) creditable service;

32 (ii) the average of the annual compensation; and

33 (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to
 34 the annuity savings account of the transferring member as of
 35 the day before the transfer.

36 (2) If the requirements of subsection (b)(2) and (b)(3) are
 37 satisfied, the board shall transfer from the public employees'
 38 retirement fund to the judges' 1977 benefit system the amount
 39 credited to the annuity savings account and the present value of
 40 the retirement benefit payable at sixty-five (65) years of age that
 41 is attributable to the transferring participant.

42 (3) The amount the state and the participant must contribute to the

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judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior service under the judges' 1977 benefit system may be granted only under subsection (b).

(5) Credit for prior service in the public employees' retirement fund for service other than as a full-time referee, full-time commissioner, or full-time magistrate remains under the public employees' retirement fund and may not be credited under the judges' 1977 benefit system.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 3. IC 33-38-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A participant shall make contributions to this fund of six percent (6%) of each payment of salary received for services as judge. However, the

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1 employer may elect to pay the contribution for the participant as a
 2 pickup under Section 414(h) of the Internal Revenue Code.

3 (b) Participants' contributions, other than participants' contributions
 4 paid by the employer, shall be deducted from the monthly salary of
 5 each participant by the auditor of state and by the county auditor and
 6 credited to the fund as provided in IC 33-38-6-21 and IC 33-38-6-22.
 7 However, a contribution is not required:

8 (1) because of any salary received after the participant has
 9 contributed to the fund for twenty-two (22) years; or

10 (2) during any period that the participant is not serving as judge.

11 (c) **A participant may elect to make additional contributions**
 12 **after twenty-two (22) years.**

13 SECTION 4. [EFFECTIVE JULY 1, 2007] (a) **The pension**
 14 **management oversight commission shall identify a way to**
 15 **harmonize the benefit structures of:**

16 (1) **the judges' 1977 retirement, disability, and death benefit**
 17 **system established under IC 33-38-7; and**

18 (2) **the judges' 1985 retirement, disability, and death benefit**
 19 **system established under IC 33-38-8.**

20 (b) **This SECTION expires November 1, 2008.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1480, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1480 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 21, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1480 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-37-7-8, AS AMENDED BY P.L.174-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).

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(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and ~~corrections~~ **correction** fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and ~~corrections~~ fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

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(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The DNA sample processing fees collected under IC 33-37-5-26.2.

(3) The court administration fees collected under IC 33-37-5-27.

(h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26 ~~as the city or town share.~~ **to fund the operation of the city or town court."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1480 as printed February 20, 2007.)

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